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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,787	11/07/2000	Benoit Laflamme		4281

7590 04/15/2003

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EXAMINER

MASINICK, MICHAEL D

ART UNIT PAPER NUMBER

2125

DATE MAILED: 04/15/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/709,787

Applicant(s)

LAFLAMME ET AL.

Examiner

Michael D Masinick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the labeling of Figures 1 and 2 is confusing. Figure labels and prior art markings should be under the drawing and not in the center. The current markings would be easily overlooked. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,706,191 to Bassett et al.

4. Referring to claims 1 and 30, Bassett shows a remotely controlled and monitored spa comprising: a spa controller (Col 1, lines 26-34), a interface signal converter, electrically connected to said spa controller ("AIM", Col 6, lines 5-20); and a remote computer connected to said interface signal converter via a communications link (Figure 15, note that HVAC is an example used in this figure), wherein said interface signal converter converts communication signals transferred from said remote computer via said communications link and directs the

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converted signals to the spa controller, and wherein said interface signal converter converts signals from the spa controller to be communicated to said remote computer via said communications link (Col 6, lines 14-20).

5. Referring to claims 4-6, Bassett shows where the interface signal converter comprises an IR or RF transceiver and is capable of transceiving at least two different types of signals.

Examiner notes that these AIMs are designed to run on the CEBus system shown in column 1, lines 46-60 and would inherently be able to transceive all communications available on such a system.

6. Referring to claims 11 and 12, Bassett shows where the remote computer is connected to the interface by wired or wireless technology (IR, RF, or Twisted Pair – Col 1 lines 46-60).

7. Referring to claim 13 and 21, Bassett shows a second computer for sending commands to said spa controller and receiving data from said spa controller wherein said second remote computer is connected to said spa controller via a computer network. Examiner notes that modems are used to connect computers to computer networks. Therefore any computer in the world which contains a modem with access to a telephone line has the ability to connect to the spa controller and could qualify as a second computer.

8. Referring to claims 16-20, Bassett shows the remote control of a unit using a modem (Col 5, lines 33-41). Anyone, including the spa owner, spa dealer, spa manufacturer, spa service technician, or spa controller manufacturer, would have access to the system when given the correct authorization.

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9. Referring to claim 23, Bassett shows where the computer network comprises a LAN.

Examiner notes that a simple twisted pair connection between two microcomputers, like the one shown above, is considered to be a Local Area Network.

10. Referring to claim 27, Bassett shows where the remote computer is connected to a computer network (Examiner notes that modems are used to connect computers to computer networks. Bassett's use of a modem in column 5 as shown above therefore reads on this claim).

11. Referring to claim 28, Bassett shows where the remote computer is used to monitor and control the spa (Col 6, lines 14-19).

### ***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US

Patent No. 5,706,191 to Bassett et al in view of U.S. Patent No. 5,877,957 to Bennett.

14. Bassett does not specifically show the use of a RS-485 transceiver in the interface signal converter alone or as one of two different types of communications.

15. Bennett shows an appliance control system in a home automation environment. In Column 20, lines 1-9, Bennett shows that in addition to CEBus, X-10, and other home automation protocols, RS-485 may also be used.

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16. It would have been obvious to one of ordinary skill in the art at the time of invention to use a RS-485 transceiver in the AIM of Bassett because it is another commonly used protocol in the computer networking industry as shown by Bennett.

17. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al in view of U.S. Patent No. 6,459,959 to Williams et al.

18. Bassett does not specifically show that the interface signal converter can be removable, secured, or fits into a cavity.

19. Williams shows an irrigation system with removable station modules for watering. Because of the damp conditions, these modules may be attached with screws as shown in figure 4, or a removable bracket as shown in figure 5. Figure 7 shows a cavity where the controller module would be placed.

20. It would have been obvious to one of ordinary skill in the art at the time of invention to use the removable modules and cavity of Williams in the spa control system of Bassett because they share the same problem of dampness and wet conditions. It would have been obvious to one looking to solve this problem to look in any art where large amounts of water are involved.

21. Claims 14, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al.

22. Bassett does not show that the computer network can be the internet.

23. Bassett does show the use of a modem for connection to a network.

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24. It would have been obvious to one of ordinary skill in the art at the time of invention to connect the network of Bassett to the internet using any standard protocols such as TCP/IP.

Internet controlled devices and web pages that control household devices are well known in the art.

25. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al in view of US Patent No. 5,764,639 to Staples et al.

26. Bassett does not show that the remote computer is a PDA or a cellular phone.

27. Staples shows that in column 4, lines 23-35, the use of a PDA or cellular phone to connect to a communications system.

28. It would have been obvious to one of ordinary skill in the art at the time of invention to use the PDA and Cellular phone of Staples as the remote computers in Bassett because they are smaller and easier to carry than a laptop computer as specified but can provide the functionality.

29. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett.

30. Bassett does not specifically say that the remote computer can be located underneath a spa skirt.

31. It would have been obvious to one of ordinary skill in the art at the time of invention, when looking for a place to hide the remote computer, to place the computer under a spa skirt in near proximity to the spa controller.

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32. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett.

33. Bassett does not specifically say that the remote computer can be used to download software to the spa controller.

34. As shown in reference to claims 14, 15, and 22 above, the internet could easily be connected to the system of Bassett. It is well known in the art that the internet can be used to download related software, and that this can be done in an automated fashion. It would have been obvious to one of ordinary skill in the art at the time of invention to use the remote computer to download related software via the internet to the spa controller.

#### *Conclusion*

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and to the state of the art at the time of invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D Masinick whose telephone number is (703) 305-7738. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (703) 308-0538. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7239 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



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mdm

April 11, 2003

*Albert W. Paladini 4-14-03*

**ALBERT W. PALADINI  
PRIMARY EXAMINER**